

Appl. No. : 10/536,621
Filed : May 26, 2005

REMARKS

The subject matter of claim 9 has been included in claim 1, and claim 9 has been canceled. Claims 12 and 20 have been rewritten in independent form including all of the limitations of a base claim and any intervening claims. As a result, claims 1-4, 7-8, and 10-21 are pending in this case. No new matter has been added. Applicant respectfully requests entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Declaration

Applicant hereby submits a corrected version of the declaration signed by an inventor whose printed name included the transliteration error.

Rejection on Ground of Nonstatutory Obviousness-type Double Patenting

Claims 1-4 and 8-15 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/598,717.

Claim 7 has been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/598,717 in view of Takashi (JP11-077517).

Claims 16-21 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/598,717 in view of Shimomura (US2005/0064709).

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Applicant herewith submits a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c), thereby obviating the above rejections. The filing of the terminal disclaimer “simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.” *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

Rejection Under 35 U.S.C. § 102

Claims 1, 7, and 15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Takahashi (JP11-07517). Claim 1 has been amended to include the subject matter of claim 9 which has not been rejected on this ground. Claims 7 and 15 depend from claim 1. Thus, this rejection is moot.

Claims 1 and 7 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hasegawa (JP2002-324770). Claim 1 has been amended to include the subject matter of claim 9 which has not been rejected on this ground. Claim 7 depends from claim 1. Thus, this rejection is moot.

Claims 1, 7, 8, 10, 11, 13-19, and 21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Shimomura (US2005/0064709). Claim 1 has been amended to include the subject matter of claim 9 which has not been rejected on this ground. Claims 7, 8, 10, 11, 13-19, and 21 depend ultimately from claim 1. Thus, this rejection is moot.

Rejection Under 35 U.S.C. § 103

Claims 2-4 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Toru (JP2002-324770). Claims 2-4 depend from claim 1 which now recites the subject matter of claim 9 which has not been rejected on this ground. This rejection is moot.

Claims 14, 16, and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Toru in view of Kouchiya (JP2001-261874). Claims 14, 16, and 17 depend ultimately from claim 1 which now recites the subject matter of claim 9 which has not been rejected on this ground. This rejection is moot.

Claims 2-4, 9, 12, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimomura. However, Shimomura does not preclude patentability of these claims pursuant to 35 U.S.C. § 103(c).

The undersigned hereby verifies that the subject matter disclosed in Shimomura and the claimed invention were, at the time the claimed invention was made, owned by the same assignee

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of record, TOYO TIRE & RUBBER CO., LTD., or subject to an obligation of assignment to the same assignee of record

The subject matter of claim 9 has been included in claim 1, and claims 2-4 depend from claim 1. Claims 12 and 20 have been rewritten in independent form including all of the limitations of a base claim and any intervening claims. As a result, claims 1-4, 7-8, and 10-21 are in condition for allowance.

Claim 22

Claim 22 has been withdrawn from further consideration. However, claim 22 is directed to a method of using the subject matter of claim 1. Thus, for the same reasons as in claim 1, claim 22 is allowable. Applicant respectfully requests rejoining claim 22.

CONCLUSION


In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. The grounds for rejection which are not discussed here are moot. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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